

**REMARKS/ARGUMENTS**

Claim 28 has been amended to insert an “a” before the word “determination.” No other claims have been amended, canceled, withdrawn or added. Claims 25-48 are pending.

**Rejections under 32 U.S.C. § 102(b)**

The April 20, 2006 Office Action (“Office Action”) rejected claims 25, 36, and 44 as anticipated by Bringby et al., 6,283,883 (“Bringby”). A reference anticipates “only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131. “The **identical invention** must be shown in as complete detail” as claimed. Id. (Emphasis added).

Claim 25 recites as follows:

A method for facilitating handover between a base station pair in a communication system comprising:

computing a cost function for the base station pair dependent on a relative received signal strength and an adaptive hysteresis factor;

**selecting a base station from the pair dependent on the cost function and a second factor**, wherein the second factor is either base station load or physical distance between a user terminal and the base station. (Emphasis added).

Thus, the emphasized portion of claim 25 recites selecting a base station from a pair of base stations dependent on a cost function and a second factor. Bringby does not anticipate claim 25 because it fails to teach at least this limitation of claim 25.

Bringby describes techniques for determining an initial transmit power that a base station may use in transmitting to a mobile station. (Bringby, col. 3, lines 5-9). More specifically, Bringby describes using measurements of uplink and downlink pathloss to assess the environment between a base station and a mobile station. This assessment is

used to estimate a purported optimal initial transmit power for a base station. (Bringby, col. 3, lines 12-18). Thus, Bringby focuses on describing how to determine an initial base station transmit power, and not on selecting a base station from a pair of base stations. It is therefore asserted that Bringby does not anticipate claim 25.

None of the portions of Bringby cited by the Office teach claim 25's limitation of selecting a base station from a pair of base stations dependent on a cost function and a second factor. Regarding "selecting a base station from the pair dependent on the cost function," the Office cites col. 4, lines 23-28 of Bringby. (Office Action, p. 3). However, this portion of Bringby merely states that a base station may direct a mobile station "to change its output power." (Bringby, col. 4, line 25). An exemplary architecture for a base station is also described. (Bringby, col. 4, lines 27-31). The cited passage does not discuss selecting a base station from a pair of base stations and therefore fails to teach the above limitation.

The Office also cites col. 3 line 61 to col. 4. line 8 of Bringby as showing "a method for facilitating handover between a base station pair . . . ." (Office Action, p. 2). However, this portion of Bringby primarily describes how different base stations and mobile stations may interfere with each others' signals. The closest this passage comes to discussing selecting among a pair of base stations is a statement that mobile stations "will also receive signals transmitted from base stations in other cells (not shown), which signals can be used to perform handoff or channel allocation **measurements**." (Bringby, col. 4, lines 6-10) (Emphasis added). The passage then continues with a discussion of transmit power levels without any further discussion of handoff-related measurements. The passage's mere mention of "measurements" somehow related to "handoffs" is insufficient to teach the above limitation of claim 25 because it does not describe actually

**selecting a base station.** It also does not describe pairs of base stations. It certainly does not describe selecting between a pair of base stations or making the selection dependent on a cost function.

The Office also cites Fig. 3 of Bringby as showing a base station pair. (Office Action, pp. 2-3). While Fig. 3 shows several mobile stations in a cell with a base station, it does not depict making a selection of a base station from a pair of base stations.

Thus, neither the above passages of Bringby, nor any other cited passages of Bringby, show claim 25's limitation of selecting a base station from a pair of base stations dependent on a cost function and a second factor. Bringby therefore fails to anticipate claim 25.

Claim 36, a machine-readable medium claim, also recites, "selecting a base station from the pair dependent on the cost function . . . ." The Office has cited the same portions of Bringby against both claim 25 and claim 36. The above discussion demonstrating that Bringby does not anticipate claim 25 is fully applicable to the rejection of claim 36. Claim 36 is therefore not anticipated by Bringby.

Claim 44 recites as follows:

A processing unit for facilitating handover between a base station pair in a communication system, comprising:

**a base station selection unit to select a base station dependent on the inputs from a received signal strength measurement (RSSI) unit, an adaptive hysteresis calculation unit, and a distance calculation unit.**

The emphasized portion of claim 44 recites a base station selection unit the makes a selection of a base station dependent upon inputs. These inputs are from a received signal strength measurement unit, an adaptive hysteresis calculation unit, and a distance calculation unit. None of the cited portions of Bringby teach this limitation.

The Office first cites col. 2, lines 56-58 of Bringby as teaching a base station unit to select a base station. (Office Action, p. 4). However, this portion of Bringby is part of a discussion of techniques for estimating downlink pathloss. There is no discussion of selecting between base stations.

The Office also cites col. 4, lines 1-28 as teaching the above limitation. As discussed above relative to claim 25, this portion of Bringby describes how mobile stations “will also receive signals transmitted from base stations in other cells (not shown), which signals can be used to perform handoff or channel allocation measurements.” (Bringby, col. 4, lines 6-10). This vague discussion of measurements that may be somehow related to handoffs is insufficient to anticipate claim 44, just as it is insufficient to anticipate claim 25. It is respectfully submitted that this passage contains no description of a base station selection unit. There is certainly nothing that describes selecting a base station dependent on inputs from the specific types of units recited in claim 44 – a received signal strength measurement unit, an adaptive hysteresis calculation unit, and a distance calculation unit.

The cited portions of Bringby therefore fail to teach at least the above limitation of claim 44.

### **Rejections under 32 U.S.C. § 103**

Claims 26 and 37 are rejected under Section 103 as being unpatentable over Bringby in view of Watters et al., U.S. Patent Application No. 20010002822 (“Watters”). Claim 26 depends from claim 25 and claim 37 depends from claim 36. The rejection of claims 26 and 37 is expressly conditioned upon Bringby teaching or suggesting all the limitations of independent claims 26 and 37.

However, as discussed above, Bringby does teach nor suggest all the limitations of claims 25 and 36. Watters is not cited for the purpose of teaching the limitations of independent claims 25 and 36. Claims 26 and 37 are therefore patentable over Bringby and Watters. MPEP § 2141.03.

Claim 27 is rejected under Section 103 as being unpatentable over Bringby in view of Akopain et al., U.S. Pat. No. 6,466, 164, (“Akopain”). Claim 27 depends from claim 25.

As discussed above, Bringby does not teach nor suggest all the limitations of claim 25. Akopain is not cited for the purpose of teaching the limitations of claim 25. Claim 27 is therefore patentable over Bringby in view of Akopain.

Claim 45 is are rejected under Section 103 as being unpatentable over Bringby in view of Hashem et al., U.S. Patent Application No. 20030073455 (“Hashem”). Claim 45 depends from independent claim 44.

As discussed above, Bringby does not teach nor suggest all the limitations of claim 44. Hashem is not cited for the purpose of teaching the limitations of claim 44. Claim 27 is therefore patentable over Bringby in view of Hashem. MPEP § 2141.03.

#### **Allowable Subject Matter**

Applicant appreciates that claims 28-35, 38-43 and 46-48 have been found to have allowable subject matter. However, these claims are objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form.

However, claim 34 is already in independent form. Applicant respectfully requests that the objection to this independent claim be withdrawn and the claim allowed.

Claim 35 depends from allowable independent claim 34. Applicant therefore respectfully requests that the objection to this claim be withdrawn and the claim allowed.

With respect to claims 38-33, 38-43 and 46-48, Applicant respectfully submits that the rejection of the base claims is overcome herein, meaning that these claims are allowable as written. Applicant therefore respectfully requests that the objection to these claims be withdrawn.

**Conclusion**

Applicant respectfully submits the present application is in condition for allowance.

The Commissioner is authorized to charge or credit any deficiencies or overpayments in connection with this submission to Deposit Account No. 02-2666, and is requested to notify us of same.

Respectfully submitted,

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